



Proposed Regulation Agency Background Document

Agency name	Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-720-10 et seq.
Regulation title	Regulations Governing Local School Boards and School Divisions
Action title	Promulgation of new regulation through consolidation of several select regulations
Date this document prepared	April 1, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The new regulation amends and reenacts the *Regulations Governing School Boards Local* (8 VAC 20-490-10 et seq.) into the *Regulations Governing Local School Boards and School Divisions* (8 VAC-20-720-10 et seq.) by consolidating it with several applicable regulations into one concise regulation. The regulations to be consolidated into this one regulation are as follows:

8 VAC 20-150-10 et seq.	<i>Regulations Governing Management of the Student's Scholastic Record in the Public Schools of Virginia</i>
8 VAC 20-180-10	<i>Regulations Governing School Community Programs</i>
8 VAC 20-210-10	<i>Classification of Expenditures</i>
8 VAC 20-240-10 et seq.	<i>Regulations Governing School Activity Funds</i>
8 VAC 20-250-10	<i>Regulations Governing Testing Sight and Hearing of Pupils</i>
8 VAC 20-310-10	<i>Rules Governing Instruction Concerning Drugs and Substance Abuse</i>
8 VAC 20-320-10	<i>Regulations Governing Physical and Health Education</i>
8 VAC 20-390-10 et seq.	<i>Rules Governing Division Superintendent of Schools</i>
8 VAC 20-410-10	<i>Rules Governing Allowable Credit for Teaching Experience</i>
8 VAC 20-420-10	<i>Regulations Governing Personnel in Public School Libraries Operated Under Joint Contract Under Control of Local School Board or Boards</i>
8 VAC 20-460-10 et seq.	<i>Regulations Governing Sick Leave Plan for Teachers</i>

8 VAC 20-490-10 et seq. *Regulations Governing School Boards Local*
8 VAC 20-565-10 et seq. *Regulations for the Protection of Students as Participants in Human
Research*

Those regulations that are incorporated into the *Regulation Governing Local School Boards and School Divisions* will be repealed simultaneously with the promulgation of the new regulation.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

There are no acronyms or technical terms that are not also defined in the definitions section of the regulation.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Code of Virginia § 22.1-16 of the Code of Virginia authorizes the Board of Education to "...adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title." These regulations are already in effect, but they are out-of-date. Therefore, in order for the Board to properly carry out its duties, the regulations must be updated.

Additionally, Item 140 C.5.k.4) of the 2009 Appropriation Act requires the Department of Education to "review state laws, regulations, and procedures that could be modified, reduced, or eliminated in an effort to minimize the administrative burden on local school divisions and the Department of Education. The findings from this review shall be submitted to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2009."

These regulations are also being revised and consolidated in order to reduce the administrative burden on local school divisions and the Department of Education.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

This regulation is needed because the *Regulations Governing School Boards Local*, 8 VAC 20-490-10 et seq., were adopted on or before September 1, 1980. These regulations have not been amended since that time and are out of date. Additionally, several other regulations have been promulgated that address regulatory requirements for local school boards and school divisions. Some of these regulations were adopted on or about September 1, 1980 as well. They all lend themselves to consolidation with the *Regulations Governing School Boards Local*. This proposal is to promulgate new regulations governing

local school boards that will include many of the provisions of the current regulation, along with incorporating the applicable regulatory requirements from these other regulations.

The regulations are already in effect. The purpose of this proposal is to consolidate them in such a way that school divisions will be able to access and implement them more effectively and efficiently for the management of the public schools in Virginia, thus better serving the students and their families. This will also help fulfill the purpose of Item 140 of the 2009 Appropriation Act as noted above.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

There are no real substantive changes from the regulations that are currently in effect to the consolidated regulation. Some of the provisions of the current regulations are not included in the consolidated regulation because they are out of date or otherwise no longer applicable. Additionally, some of the very detailed requirements in the current regulations have been changed in the new regulation in order to give local school divisions more flexibility in the development of their own plans and procedures.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The consolidation of the regulations is beneficial to the public as well as local school divisions in that the provisions will be up to date and will, in some cases, provide local school divisions with more flexibility without having a negative impact on the provision of educational services. The new regulation will also provide local school boards and superintendents with one regulation with current regulatory requirements that are in 14 different regulations, thus making it easier for them to determine the necessary requirements. Additionally, since the regulations have been updated in the new regulation, they provide requirements for today's educational programs rather than those programs that existed in 1980.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements more restrictive than applicable federal requirements. The majority of the requirements do not have comparable federal counterparts. When they do, the proposed regulation requires local school boards and school divisions to operate in accordance with them.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

The regulation will affect all local school boards and school divisions but none will be materially impacted disproportionately. There should be minimal impact on all of the school divisions since the majority of the requirements are already in the regulations that are being consolidated.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. The proposed regulation will affect local school boards and school divisions. It will not affect small businesses.

Anyone wishing to submit written comments may do so by mail, e-mail or fax to the Division for Policy and Communications, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, (804) 225-2043; (804) 786-5389, Policy@doe.virginia.gov.

Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall Web site (www.townhall.virginia.gov) and the Commonwealth Calendar. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	There is a minimal cost to the state to implement and enforce the proposed regulations. However, existing budgets should be sufficient since most of these requirements have already been in effect.
Projected cost of the new regulations or changes to existing regulations on localities.	It is not possible to estimate whether there will be an increased cost due to the varying nature of the 132 school divisions. However, it is doubtful that there will be increased cost since most of these requirements have already been in effect.
Description of the individuals, businesses or other entities likely to be affected by the new	Local school boards and school divisions.

regulations or changes to existing regulations.	
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are 132 local school divisions in the state. Each school division has a school board with varying numbers of members and a superintendent.
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	It is not possible to estimate the cost of the regulations due to the varying nature of the 132 school divisions. However, any cost should be minimal since the proposed regulation does not impose additional requirements to individuals, businesses or other entities in the localities.
Beneficial impact the regulation is designed to produce.	The regulation will consolidate many of the current regulations that school boards and school divisions must follow. It will also identify the other regulations that they must follow. This should make the management of school divisions more efficient as regulatory requirements will be available in one document.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Other alternatives to the proposed regulation have not been considered by the Board of Education as many of the regulations are out of date and need to be revised. Additionally, the consolidation of the regulations will assist school divisions. The only acceptable alternative would be to amend the existing regulations and promulgate new ones without consolidating them. This would not appear to be in line with the directive from Item 140 of the 2009 Appropriation Act noted above.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5)

the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation does not impact small businesses. The Virginia Department of Education does not regulate any businesses.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

No public comments were received following the publication of the NOIRA.

Commenter	Comment	Agency response

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Schools are important institutions in communities. The impact of the proposed regulatory action on the institution of the family will be continued improvement in the public school system. Students must be adequately prepared for the future in order to lead productive lives. Being productive and successful will increase the potential for strong stable families.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if	Current requirement	Proposed change, rationale, and consequences
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	applicable		
“School activity funds” adapted from 8VAC20-240-10; “Teaching day” adapted from 8VAC20-131-5; “Standards of Learning” adapted from § 22.1-253.13:1 of the Code of Virginia	8VAC20-720-10	The regulations being consolidated did not have formal definitions.	Therefore, the majority of the definitions in this regulation were created or adapted from other regulations or the Code of Virginia. The purpose of the definitions is to provide clarity for those who read and who implement this regulation.
8VAC20-490-50	8VAC20-720-20	Requires maintenance of up-to-date policy manual and some items that must be included.	To require up-to-date policies in accordance with the Standards of Quality, Code of Virginia § 22.1-253.13:7. School divisions already have to certify compliance with the SOQ; the consequence is for failure to comply with the SOQ.
8VAC20-490-60	8VAC20-720-30	Establishes requirements for reports.	To ensure the receipt of required reports in a timely manner and establish consequences for the failure to submit such reports in that manner.
8VAC20-180-10	8VAC20-720-40	Establishes requirements for school division-wide plans	To require a division-wide plan in accordance with the Standards of Quality, Code of Virginia § 22.1-253.13:6. School divisions already have to certify compliance with the SOQ; the consequence is for failure to comply with the SOQ.
8VAC20-490-10	8VAC20-720-50	Requires familiarity by all school officials with school laws and regulations and assurance of their implementation.	To require familiarity and adherence to applicable school laws and regulations in Title 22.1 of the Code of Virginia and Volume 8, Section 20 of the Virginia Administrative Code.
8VAC20-210-10	8VAC20-720-60	Prescribes classification of expenditures to be used by local school boards.	To provide school divisions with new classification of expenditures passed by the 2008 General Assembly. (§ 22.1-115 of the Code of Virginia.)
8VAC20-240-10 et seq.	8VAC20-720-70	Establishes requirements for school activity funds.	To update and clarify requirements regarding school activity funds.
	8VAC20-720-	Reserved for a section on	Not applicable at this time – will be added

	80	fees and charges.	later.
8VAC20-310-10; 8VAC20-320-10	8VAC20-720-90	Establishes requirements for a health education program.	To provide the requirements and eliminate out-of-date provisions from the regulations to be repealed.
8VAC20-390-10 et seq.	8VAC20-720-100	Establishes requirements for the division superintendent of schools.	To provide the requirements and eliminate some unnecessary provisions in the regulation to be repealed.
8VAC20-490-20; 8VAC20-410-10	8VAC20-720-110	Sets requirements for teacher contracts and licenses.	To minimize requirements by requiring that teachers be licensed and endorsed in accordance with 8VAC20-21-10 et seq. and that contracts be made in accordance with 8VAC20-440-10 et seq.
8VAC20-460-10 et seq.	8VAC20-720-120	Sets requirements for sick leave plans for teachers.	To provide the requirements and eliminate out-of-date provisions from the regulation to be repealed.
8VAC20-150-10 et seq.	8VAC20-720-130	Establishes requirements for the management of student records.	To continue to provide the laws that must be adhered to in the management of student records.
8VAC20-565-10 et seq.	8VAC20-720-140	Sets requirements for students as participants in human research.	To continue to provide the requirements for research on students in accordance with § 22.1-16.1 of the Code of Virginia.
8VAC20-250-10	8VAC20-720-150	Establishes requirements for testing sight and hearing of students.	To continue to provide the requirements for the testing of sight and hearing
	8VAC20-720-160	Reserved for a section on instructional materials.	Not applicable at this time – will be added later.
	8VAC20-720-170	Reserved for a section on textbooks.	Not applicable at this time – will be added later.

For new chapters, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements